MINUTES OF THE
MEDICAL MARIJUANA PUBLIC WORKSHOP
December 23, 2013

The Medical Marijuana Public Workshop was called to order by Marla McDade Williams at 9:04 a.m. on Monday, December 23, 2013, at 4150 Technology Way, Room 303, Carson City, Nevada. The Public Workshop was videoconferenced to Nevada Early Intervention Services, 3811 W. Charleston Blvd., Suite 112, Las Vegas, Nevada.

DIVISION OF PUBLIC & BEHAVIORAL HEALTH STAFF PRESENT:

Marla McDade Williams, Deputy Administrator
Chad Westom, Bureau Chief
Joseph Thiele, Management Analyst
Kelly Bown, Consultant

OTHERS PRESENT:

Ramsey Dadis
Heidi Tangonan-Muhamed
Jerry Winn
John McCann
Paul Munoz
Greg Nelsen
Kevin Willoughby
Clint Cates
Paris Balaouras
Jenny Perez
Steven Cookson
Scott Oelke
Patrick McDonnell
Jacqueline Holloway
Matt Walker
Jonathan Hale
Maria Hale
Jay McClure
Angela Arriola
Karen Becker
Vicki Higgins
Dan Musgrove
Henry Soloway
Al Brody
Adam Sternberg
William Horne
Frank Hawkins
Jim Ferrence
Steve Fullner
Brandon Parcell
Sharlene Lewis
Howard Schwartz
Angela Harris
Susan Johnson
Serina Choi
Clay Gustasson
Kathy Gillespie
William Fonte
Chris Francy
Joe Cohn
Brian O'Callaghan
Lizette Matos
Denna Woodbury
Joshua Cohen
Dave Holme
Kristen Abelan
DeLos Benedict
Matthew Rhodes
Ivan Nathanson
David Kallas
Nicholas Bird
Richard Fitzpatrick
Todd Case
Bruce Gale
John Mendoza
Richard Sensky
RJ
Forrest Darby
Daniel Ballard
William Howard Ballard
Barry Stieb
Jay Matos
David McDonough
Kimber Luciano
Harrison Gale
Eric Edgerton
John Sande, IV
Yvonne Murphy
Lee Lockhart
Farrell Vaughn
Derek Connor
Chris Kassity
Greg Salter
Carrie Richardson
Greg Sayabalian
John Sutton
Shane Johnson
Megan Salcido
Jake Ward
Ryan Adams
Tobias Paquet
Cody Lambert
Peter Kruger
Hugh Hempel
John Hiatt
Kathleen Conulz
Dirk Goering
Jeff Fontaine
Adam Mintz
Shannon Dobbs
Joe Pollock
John Griffin
Max Del Real
Michael Hillerby
Marc TerBeek
Armando Ornelas
Lindsay Knox
Dan Newell
Lissa Davis
Judie Collins
Mike English
Rebecca Gasca
Jennifer Solas
Kurt Duchal
Vic Salerno
Melissa Waite
Michael Jameson
Andre Rhodes
Patrice Sowers
Gina Bishop
Marty Brees
Tim Proeme
Monica Burrell

Marla McDade Williams:
Thank you for attending the Medical Marijuana Public Workshop. This Public Workshop is the opportunity to submit recommended changes to the draft regulations governing medical marijuana establishments (MMEs).

The Division of Public and Behavioral Health (DPBH) is charged with oversight and regulation of MMEs.

The purpose of this Public Workshop is to receive your recommendations for changes to the draft regulations. During the workshop, we will not answer questions pertaining to applications for MMEs.

Hardcopies of DPBH amendments and public comments received by DPBH are available for this Public Workshop and on our website. We will be updating our website as we receive additional public comments. This Public Workshop is being recorded, and we will be posting the video recording on our website as soon as possible.

Changes will be made to the draft regulations based on consideration of public comments received today. Once all changes have been made, the draft regulations will be submitted to the Legislative Counsel Bureau (LCB). The LCB will post the draft regulations on its website under the Nevada Register. The LCB will create the final proposed regulations. When the DPBH receives the LCB version, the proposed regulations will be posted on the LCB website. Notice will be published for the State Board of Health (SBOH) hearing. Once the proposed regulations are posted, any future comments should be based on these regulations.

The DPBH is required to adopt the regulations by April 1, 2014, and it is the Division's intention to present the proposed regulations to the SBOH in March 2014.

For future reference, the SBOH adopts the regulations. The regulations are then sent to the Legislative Commission for approval. The Legislative Commission cannot make any changes to the adopted regulations; however, the Legislative Commission can reject the regulations. Therefore, it is essential that we make all changes to the regulations prior to submission the Legislative Commission.

Steven Cookson:
I represent The Med Men. Section 26 addresses taxes paid or any other beneficial contributions to the State. Please clarify the term "other beneficial contributions."

Ms. McDade Williams:
As indicated earlier, we are not addressing the MME application process today.

Patrick McDonnell:
I represent Rainey Devine. You have received our written comments.

We support the comments submitted by John Sande of Fennemore Craig Jones Vargas, and we, too, request clarification as did Mr. Sande in his submission.

We oppose the recommendations submitted by Clark County Business License. There seems to be a piling of red tape upon red tape. The reaction by local jurisdictions is almost obstructionist to the will of the people as carried out by the Legislature and as is now being carried out by the Division.

We echo the suggestions and complaints regarding the auditing requirements in many of the comments you have received. It is as if you are planning to audit the businesses to death, and there will be an overkill of auditing. We believe the auditing requirements should be lessened.

One section states that items in a greenhouse should be shielded from view by the public. We ask that this section be modified so that greenhouse items cannot be seen from a public thoroughfare. I am sure this verbiage pertains to security or public perception concerns; however, as it is written now, this could actually work against security. For instance, if there is a security guard patrolling a cultivation facility, he or she needs to be able to see into the greenhouse as long as the facility has some sort of wall or perimeter that blocks the view from a public thoroughfare. We believe that is sufficient for your purposes. At one time, we had to have blacked-out windows for bars to prevent children from seeing people drinking inside. These concerns are now obsolete. The interpretation of draft regulations could mean that a facility must not be viewed from the air, either. We suggest that you allow for clear, rather than opaque, rooftops on greenhouses at the very least.

Jacqueline Holloway:
I am the Director of Clark County Business License. I am here today with Matt Walker, Program Assistant to the Director for the medical marijuana program. We stand by our proposed amendments to the draft regulations.

We appreciate the work that DPBH has done. In addition, we value that the Board of County Commissioners is one of the first boards in the State to allow the Business License Department and the County to move forward in implementing its medical marijuana program.

We have submitted amendments for your consideration. I will explain each amendment.

The first amendment proposes that no dispensary shall purchase marijuana from another dispensary.

The second amendment is related to aggregate ownership. We would like the Division to consider aggregate ownership as “equal to or exceeding” 5 percent ownership interest in an MME.

The third amendment proposes that establishments demonstrate proof of all applicable public safety inspections required by local ordinance before an establishment becomes fully licensed by

the State to operate. This amendment proposes that there be full compliance with and completion of all public safety inspections including those inspections required by local jurisdictions. We believe it is important that all inspections be approved prior to an establishment opening or a business license being issued.

The fourth amendment proposes that a change in location within 5 miles must be justified and done with land use approval of the local jurisdiction in which the establishment intends to relocate. Currently, any change of location requires that the business go before the Department for licensure, not only for zoning approval, but for public safety inspections for the new location as well. In addition, we are proposing that a business relocating provide justification, in writing, for the need to change locations and for land use approval.

The fifth amendment proposes that the Division notify agents and local licensing jurisdictions with 48 hours of an agent registration becoming void. This proposed amendment is important, not only for the Department of Business License but also for the Las Vegas Metropolitan Police Department so they are made aware of suspensions or revocations of agent registration cards.

The sixth amendment proposes that the Division make available to a local government all documents submitted to the Division as part of an application for operation of an MME. We certainly appreciate the Division's consideration of allowing the Department to receive the applications simultaneous to the Division so we are in a position to begin the vetting and licensing process. This will allow us to have a streamlined process that enables us to provide licenses more efficiently.

The seventh amendment proposes that a cultivation facility shall ensure that marijuana cannot be observed or smelled from outside of the building.

Finally, we recommend that when local licensing authorities and local law enforcement agencies enter an MME, they can enter the establishments unannounced and do not have to sign in or have to be supervised as guests as specified in section 53.

Ms. McDade Williams:
We do not intend to create any additional burdens for anyone involved in this process. We are working with local governments so that work is not duplicated. We want to ensure that if a local government conducts an inspection, the Division is not conducting an inspection at the same time. It is incumbent upon us to ensure that the language reflects the intent of the regulations. We do not intend to create any additional burdens for establishments.

Ms. Holloway:
It is both the responsibility of the State and the local jurisdictions to ensure this program is implemented appropriately. We take that duty and responsibility seriously.

Angela Harris:
I recommend that the Division take into consideration the use of cannabis by children and add the appropriate language in the regulations to address this issue. Recently, there have been studies and research indicating that cannabis is beneficial in the treatment of some childhood diseases. For instance, some children experience as many as 300 seizures a day, and cannabis has been found to be a beneficial treatment. Other states have placed language in their medical marijuana laws addressing use by children.

In addition, we need language addressing fresh raw leaves. There are provisions in the draft regulations stating that growers can only have a certain amount of product, not just the flowers and the buds. Flowers and buds are medicinal, but fresh raw leaves are medicinal as well. There has been research showing that raw leaves are beneficial. It is difficult to obtain raw leaves for cancer patients because they are short lived. In addition, they are undesirable for growers because there is no profit. However, there is no psychotropic affect from raw leaves. Raw leaves are not medicinal for most people, but they are medicinal for others. It should be legal for growers to be able to keep raw leaves.

The product referred to as "phoenix tears" requires at least four ounces of bud in its manufacture. There is no provision in the draft regulations allowing growers to possess four ounces of the bud. This will prevent the manufacture of this medicine. There is a lot of research demonstrating the benefits of this medicine. The amount of cannabis that one is allowed to possess must be increased.

Regarding greenhouses, many plants must be grown outdoors. Cannabinoids and cannabinols are used for child medicines. Cannabinoids and cannabinols are increased by growing plants outdoors. There is a problem with only allowing grows in enclosures.

Vicki Higgins:
Section 126 should include provisions for assignment of a quality identification number assigned by the laboratory as testing is completed. This identification number should remain on the product from the laboratory to sale.

Section 132 should be deleted. We need to have enough cannabis available throughout the State.

Section 137 penalizes physicians who are helping patients. There have been a marked increase in patients since the law has been changed. Once dispensaries are open and available, more patients are going to be able to purchase the medicines they need at dispensaries. This section puts physicians at risk; currently any physician that is willing to sign paperwork for patients is going to hesitate to provide care in order to protect their practice. These compassionate doctors have put their necks out, and I do not believe they should be restricted in the number of patients they help. There should be some oversight, but I do not believe doctors should be penalized.

I believe all establishments should be required to provide handicap and restroom access. I would like disabled employees to gain employment at establishments.

Finally, I believe we can educate the departments with whom we will interact. These departments need to be aware, especially at the supervisory levels, that medical cannabis is legal.

Adam Sternberg:
I echo what Ms. Higgins said about section 137. Our physicians in the State do a service to our community. Nevada Administrative Code (NAC) 453A.500 states that the Board of Medical Examiners is prohibited from taking disciplinary actions against attending physicians who participate in certain activities in accordance with the chapter. The Division should follow the guidance in NAC 453A.500.

Frank Hawkins:
Section 24 addresses those with a 5 percent ownership interest in an MME. We believe, as a matter of good public policy, that all owners should be required to disclose all ownership information regardless of the percentage interest in the establishment.

We believe that the amendment submitted by the City of Reno is a good amendment to section 26.

We agree with the amendments submitted by Lionel Sawyer & Collins.

We support the first, second, and third proposed amendments submitted by Clark County Business License. We do not support the fourth, sixth, or seventh amendments submitted by Clark County Business License. Regarding the sixth amendment, we believe that all applications should be the same for all applicants. We believe the language in the seventh amendment is arbitrary and restrictive.

We support the amendments and questions submitted by Rainey Devine.

We support the amendments submitted by John Sande of Fennemore Craig Jones Vargas with the exception of recommendations pertaining to section 40, paragraph 1; section 42, paragraph 2; section 43, paragraph 5; and section 44, paragraph 3.

We will submit additional written comments today.

John Hiatt:
One of the proposed amendments to section 118 requires ISO [International Organization for Standardization] accreditation for laboratories. It is difficult to obtain certification for a laboratory prior to it being in operation. Currently, there are no laboratories doing this work in the State. There will be a number of laboratories trying to get up and running, and it is unreasonable to require accreditation prior to being in operation. I propose that accreditation be achieved within the first year of operation.

Eric Edgerton:
I have concerns with section 109, paragraph 1, subparagraph (b). This provision cites federal regulations. Because the federal government does not recognize the cannabis plant, we run into issues regarding insecticides, fungicides, algaecides, miticides, and pesticides. I am looking for guidance from the State regarding what protectants can be applied to the plant. I propose that the State only allow organic-certified protectants to be applied to the plant. That would include only those protectants certified by the Organic Materials Review Institute.

John Sande, IV:
I represent the law firm of Fennemore Craig Jones Vargas. We have submitted amendments and questions. We believe the language of the draft regulations needs to express the intent of the legislation.

We are requesting clarification of language in section 26, paragraph 2, subparagraph (j). This provision requires attestation. We believe it is best that, rather than have two individuals in a corporation attest, it would be better to have one point person to speak on behalf of the establishment. This attestation provision asks that a person swear under oath under the penalty of perjury for information that another person may have provided. We recommend that the State require the individual supplying information to swear to the information via attestation and allow the designated person communicating with the Division to verify to his or her knowledge based upon the attestations provided.

Section 26, paragraph 10, subparagraph (b) states that an applicant must have "unconditionally committed" funds. "Unconditionally" means without conditions; however, there is an implicit condition that they receive the license. I have submitted recommendations to clarify this language.

There needs to be clarification regarding the $250,000 requirement in section 26, paragraph 3, subparagraph (a). It should be noted that there is a provision that the applicant must establish enough capital for the first year of operation and for expenses. Is the latter requirement in addition to or inclusive of the $250,000 requirement? That language should be clarified.

Section 26 refers to "an applicant" rather than "applicants." For instance, it is my understanding that there will be 40 licenses for Clark County, 10 for Washoe County, and 2 for Carson City. The Division will compare all the applications, not just ones submitted by one applicant. As I read the draft regulations, if a group of individuals has submitted more than one application, the applications will be ranked and then compared to other applicants. This will be comparing apples to oranges. The intent was to review all the applications together, assign a point value, and compare them based on their point value, regardless of whether more than one application had been submitted. The current language needs to be clarified.

Sections 31 and 32 raise interesting questions. These provisions pertain to appeals. We need to have a system in which someone who feels aggrieved can seek redress. However, what does that redress mean for applicants who were successful in the process? I do not believe it is the intent of

anyone that the appeals process goes all the way to completion before anyone feels confident enough to move forward with the process without having his or her application revoked by a court. We need language in the regulations that states that everyone is entitled to appeal and the court can award a license, but that does not hinder successful applicants from moving forward. Since there is such a large capital investment, we want applicants to feel they can move through the process without surprises down the road.

Section 34, paragraph 1 uses the term "fully operational." This term needs to be clarified. We may want to include language that indicates that if the applicant is diligently working toward completing everything required, their provisional license will not be revoked.

Section 35, paragraph 1, subparagraph (a) addresses change of ownership. Businesses will have legitimate reasons to either bring on new owners or let go of owners. For example, if a business were to offer something like an employee stock ownership program, the current language states these businesses would have to forfeit their license. We need some sort of suitability test so that, before becoming an owner or involved in the business, they will have been vetted by the State. There needs to be a process in place that will allow businesses to bring on new owners without the current owner potentially surrendering their license.

Section 36, paragraph 3 addresses audits. Audited financial statements will be expensive for these businesses. These audits may cost between $25,000 and $50,000 annually. This will require substantial capital upfront with no prospects of making any revenues for some time. These expenses pile up over time. I hope the Division will work to minimize the expenses these businesses have. I recommend the Division require that an audit is conducted after one year of operation to establish a baseline and then require audited financials every fifth year of operation.

Section 37 addresses inspections. The State and local governments should be doing their job regarding inspections to ensure these businesses are operated appropriately; however, I foresee interruption to these businesses. If there is a complaint, I fully support inspectors coming in unannounced; however, for annual inspections, I prefer that inspectors be mindful of the business and try to conduct audits during off-of-business hours.

Sections 40, 42, 43, and 44 address residency. The Legislature has contemplated out-of-state ownership of these businesses. Most people with experience in this industry are from out-of-state. I do not believe it was the intent of the Legislature or that it is your intent to make things more burdensome for out-of-state individuals to participate. We need clarification that it is not the intent of the Division to exclude these individuals.

We have questions about agent registration cards. The draft regulations call for a number of people to have agent registration cards; we do not believe this is appropriate. The language of the draft regulations may even extend this requirement to lawyers, accountants, security guards and/or janitors. These individuals will not be involved in the business in such a way that the Division will want to require agent registration cards. This provision should be limited to the individuals that are actually conducting the day-to-day operations. The legislation contemplates

board members having agent registration cards, although not specifically. I do not have a problem with that necessarily; however, I could imagine situations in which an individual who has no experience with medical marijuana might be a valuable member of a board, and this requirement may impose an impediment for them. We do not want to prevent someone who may be qualified from participating in the business simply because they have to obtain an agent registration card.

Section 67, paragraph 3, subparagraph (b) addresses information that is distributed at the point of sale. We seek clarification as to what the Division expects in this regard and whether this information must be provided each time a purchase is made. This provision needs clarification.

Section 72, paragraph 3 addresses visibility inside a greenhouse. I have been told that some greenhouses have opaque panels and some have clear panels. We suggest prohibiting visibility of marijuana outside the property line or from a thoroughfare. I do not believe the legislation contemplates greenhouses that do not have opaque sides.

Section 81 addresses licenses for edible and infused products. There are obviously requirements for education and for food safety; however, if the establishment is only engaging in infused products, we request that the Division clarify that stringent food safety requirements do not apply.

Derek Connor:
I represent the law firm of Connor & Connor. We have concerns specific to section 137. I am concerned with the language of this section. Section 137 is a quota system where reports are submitted every year on physicians who prescribe medical marijuana to a large number of patients. The Division should take into account individual physician practice areas. For example, an oncologist or pain management physician would be more likely to make more recommendations of medical marijuana to patients than other physicians would. We want medicine to be based on medical science, not on a quota of patients that are treated.

Greg Salter:
I represent the Washoe County District Attorney's Office. We are wondering if the Division has determined the number of cultivation, production, and testing facilities that will be needed to support dispensaries. We want to plan and anticipate the number of cultivation facility applications we may receive. Has the Division made a determination?

Ms. McDade Williams:
We have not made a determination yet.

Mr. Salter:
If there is a change of ownership and the business submits a renewal within a 10-day period for the next year, what happens if the renewal is rejected?

Ms. McDade Williams:
We would have to open another application period to fill that spot or the Division has the option to go to the next person in line.

John Sutton:
We request revised language in section 35, paragraph 1, subparagraph (a). This provision states that an MME must surrender its registration certificate and reapply during the next 10-day application period before an additional person gains an ownership interest. This provision creates many adverse consequences. We ask that the Division consider the amendments recommended by the law firm LPS as posted on your website. In my opinion, LPS has recommended standards used in other regulated industries and to expressly require transfer of all or substantially all assets and not less than 10 percent of the stock of the MME to trigger it. In addition, any new owner would need to be thoroughly vetted for a new MME agent card. Rather than disrupt MME operations, the new owner could not participate until they passed the State vetting process.

Section 41 states that each MME agent registration card issued pursuant to Nevada Revised Statutes (NRS) 453A.332 must indicate the category of the registration card. The person to whom the card is issued may only provide services at the type of MME for which he or she is registered to provide services. This provision is important to us. We will be proposing a full seed-to-sale operation. From the standpoint of cross training and providing access, we ask that the State consider modifying or expanding this provision to enable registered agents to work in multiple establishments if the umbrella organization encompasses several different types of establishments.

We need clarification of section 50. Section 50 stipulates that MMEs shall not use a name or logo unless the name or logo has been approved by the Administrator of the Division; this includes any sign or advertisement that must be approved. It is my intention to hire consultants and content developers to begin discussing marketing campaigns that we will use assuming we receive the go ahead from the Division. I ask that the Division provide clarity of the types of advertisement that will be prohibited, including content and method of deployment. We need definition of the process and timeline to secure advertisement approval. This means post-license, so we need to know the workflow. This guidance will enable my team to work on marketing and planning, and to secure budgets and to secure talent while helping us avoid a costly campaign that we may not be able to implement.

Finally, we request revision to section 72, paragraphs 1 and 2. As stated earlier, our proposed business footprint includes edible and infused product manufacturing, dispensary, and cultivation facilities. From a business and safety perspective, and after completing an exhaustive analysis with several qualified individuals such as former police officers, FBI agents, etc., there is an increased security risk of bifurcating an MME and a cultivation facility. Therefore, I ask that you amend section 72 to allow specific complimentary businesses to share a common entry and common amenities like break rooms and bathrooms.

Shane Johnson:
I request revision to section 2. The definition of "batch" could be interpreted to mean different strains of marijuana that happen to be grown at the same time. I suggest that batch be defined as a specific strain of marijuana grown from one or more seeds or cuttings that are planted or harvested at the same time in the same location under the same conditions.

Other testifiers have highlighted section 36, paragraph 3 that addresses audits. I have submitted proposed changes to the language of this provision.

I request clarification of section 40. I propose that the Division add that there is no requirement that an MME agent be a registry cardholder.

I request that section 42, paragraph 2 either be deleted or be revised. There should be no restriction that an MME agent be a resident of Nevada. Please either delete this provision or specify that the business address be in the State to meet the requirement.

I request section 79, paragraph 1, subparagraph (i) be revised to clarify serving or serving size. This will vary greatly depending upon the patient and the condition being treated. I have provided the Division with suggested language to clarify this provision.

I request revision to section 115. In the context of medicine, the term "laboratory based stability testing" has specific connotations. Such testing costs up to hundreds of thousands of dollars and months of time for each product tested. This is untenable and unnecessary especially since there are no standards established for laboratory based stability testing of dried marijuana products. In the instance of edibles, the expiration date should be based upon characteristics of the food items themselves. I have provided the Division with suggested language for this provision.

I request deletion of section 132. As long as no diversion is taking place, there is no need for a limitation on production. Normal market forces of demand are more appropriate than regulation as drivers of supply. If the demand is not present, the supply will diminish naturally.

I oppose proposed amendments to section 73, paragraph 2 and section 131 submitted by Vicente Sederberg.

I oppose proposed amendments submitted by Clark County Business License pertaining to the sale of marijuana from one dispensary to another. In addition, I oppose Clark County Business License proposed amendments to section 33, paragraph 1; section 46, paragraph 1; and section 72.

I support the proposal submitted by Todd Youren regarding section 62, paragraph 1, subparagraph (d) requiring that the workspace be sanitized. Mr. Youren suggested language that would be more appropriate. Plants thrive in conditions that have both good and bad bacteria. The term "sanitized" has an aseptic connotation—this is not realistic.

Megan Salcido:
I represent the City of Reno. We have submitted one proposed amendment that we believe will make the regulations more business friendly and reduce the burden on applicants.

Our proposed amendment pertains to section 26, paragraph 13. We propose that the zoning restrictions language specifies "concerning medical marijuana establishments." Our concern is that zoning restrictions, without further clarification, may be interpreted to apply to any city with any zoning restrictions. This interpretation could apply to virtually any jurisdiction in the State. That would force applicants to go through the entire land use and business licensing process before applying with the State for a certificate. In addition, it would be a costly endeavor for these applicants prior to knowing whether they will be given one of the limited numbers of State certificates. We also believe this will flip the review process, as drafted by the regulations. Instead of applicants going to the State, through the merit-based criteria process, and then moving on to the local jurisdiction, applicants will begin with the local jurisdiction and then move to the State process. That will limit the number of applicants that make it to the State process and thereby limit the number of applicants the State needs to evaluate.

Joshua Cohen:
I am with Jack Holler Commercial Real Estate, and I am helping clients find locations.

There has been some confusion as to whether someone with a limited gaming license can also hold a dispensary license even if the two are not in the same location. It is my understanding they would both be legal under separate jurisdictions; however, we have not been able to get clarification from the State on this issue.

It is my understanding that purchases will be allowed from caretakers or from someone with a local-grow operation. If there is a small local-grow operation, there is concern that the amount produced will not be enough to start up an entire operation for multiple dispensaries. It seems there might be some sort of grey area where people can make one-time acquisitions on the black market or out-of-state. We would like clarification on this issue as well.

For local jurisdictions that will not issue permits, assuming the State laws and regulations take precedence, does that still require a local permit to open? Or, does the operator just say they have a State permit and the local jurisdiction can catch up later?

Regarding verifying out-of-state identifications and reciprocity, we would like clarification on what is required. Is it just an affidavit or do additional steps need to be taken to prove the dispensary has done due diligence?

Clark County Business License discussed limiting hours of operation. We strongly oppose this recommendation. We believe dispensaries should be able to operate 24-hours per day if the local property allows these hours.

We also believe it is onerous to allow only a change in dispensaries every 30 days. That provision limits a patient's opportunities and choices.

The 10-day application period, once per year is onerous. There are times when a business needs to change location. Theoretically, a business could open one month and find after 30 days they need to change locations. In this scenario, the business would have to wait 11 months to obtain a new certification.

Ms. McDade Williams:
I advise you to look at the draft regulations under non-resident verification. Please review that section to see if it addresses some of your concerns.

RJ for Kristen Abelan:
In Arizona, we are fighting the audit system that is currently being imposed on the dispensaries. The audits are an undue burden for businesses that may spend as much as $30,000 or more for an internal audit. Many of the dispensaries are teaming up to fight the audits. It is inevitable that the IRS will audit us within the next 3 years.

Regarding section 26, I understand we will have to go through a regulated Nevada testing facility. We ask for clarification and for a plan for testing because it is possible to put a testing facility within a cultivation facility.

Section 36 addresses the proposed hours of operations. The sooner that is clarified the better.

Section 57, paragraph 2 states that a purchase can be made from a caregiver; however, NRS states the caregiver cannot receive compensation. How can a caregiver sell to a dispensary and receive any compensation? How can one sell and but receive compensation?

Section 134 states that the Division may charge and collect a fee for any MME that is involved in a complaint. What is the fee? The fee needs to be clarified.

DeLos Benedict:
In reading through the section on independent testing laboratories, I do not see anything that would prevent familiarity between the edibles establishment, the cultivators, and certain laboratories. Some establishments may like to use a certain laboratory because they obtain the results they want from the laboratory. Maybe they should be required to use different laboratories and share the information with other dispensaries so they get the same result no matter who submits the sample.

Nicholas Bird:
Section 54, paragraph 1, subparagraph (b) addresses business records. Currently, the U.S. Department of Justice (DOJ) says that no business can use a facility because of the nature of the product we are discussing. I would like clarification on this issue as it pertains to Nevada.

Colorado has been proactive in this regard with the governor requesting clarification from DOJ. Is Nevada seeking clarification from DOJ?

Ms. McDade Williams:
The Division is not directly involved in that matter.

Richard Fitzpatrick:
The primary beneficiaries in the State will be the patients with the implementation of this new law. There is the potential that this new law will create hundreds of new businesses and thousands of new jobs in the State. This is good for small businesses.

Section 33 seems to put weight on the large, wealthy corporate interests that could already own a building or have already signed a lease without even knowing if they will get a license. There should be an option to buy property or to buy a lease predicated upon receiving a license from the State. This will allow for new businesses because they will not officially have to have total ownership at the time the State approves their application. By the time you allow them to officially open, they can have the facility.

Section 115 addresses expiration dates. This is appropriate for edible products; however, there is no credible data on expiration dates for cannabis flowers. There is no reason for the flowers to have an expiration date.

Section 118 addresses accreditation of laboratories. The ISO standards are what Nevada uses for accreditation of laboratories for testing cigarettes. In addition, Massachusetts uses ISO-accredited laboratories for testing cannabis. It is not necessary for the Division set up an intricate process for testing laboratories if ISO accreditation is used. Mr. Hiatt made some good points earlier that many laboratories will be starting up in the first year and it will be difficult to have ISO accreditation. I recommend that the Division allow an applicant to be under contract with one of the ISO-accredited laboratories while the applicant gains ISO accreditation within one year.

Section 121 addresses testing prior to manufacturing which does not make any sense. Manufacturing alters the product. It is unclear why testing must be performed prior to manufacturing. The valid point at which to test is immediately prior to packaging. In addition, this section states that the agent of the grower is the party that takes samples. Scientifically, that is not the process. A representative of a laboratory should take samples before saying the sample is representative of an entire batch. Someone independent of the grower should take the sample. The objective way is to have the testing laboratory take samples.

We agree with the opposition to the auditing process described in the draft regulations. We also oppose the residency requirements.

There are conflicts in the language regarding testing. In the draft regulations, testing is referred to as mandatory while in some places the testing is referred to as optional. This should be clarified.

The labeling requirements are hard to understand. It is unclear which label is to go on which product. These requirements need to be clarified.

Ms. McDade Williams:
You have mentioned conflicts in the language. Please identify where the conflicts are in the draft regulations.

In addition, please identify the section that addresses testing immediately prior to manufacturing.

Mr. Fitzpatrick:
Section 121 addresses testing immediately prior to manufacturing. I recommend the language be revised to state, "immediately before packaging." I will submit further comments in writing.

Ms. McDade Williams:
I appreciate your comments that the labeling requirements need revision. Please provide your specific recommendations so that we can address this issue.

Bruce Gale:
Section 35, paragraph 1 requires that an MME surrender its license and registration certificate under one of two conditions. The Division will have vetted the applicants prior to issuance of the license and certificate. Under Senate Bill (SB) 374, the certificate is non-transferrable. A change in ownership should be handled as prescribed by Nevada's gaming regulations. If there is a sale, let applicants be reviewed by the Division. This way, the MME does not surrender its certificate—it continues as a going concern. In addition, I recommend that section 35 be consistent and take into consideration section 24. Section 24, paragraph 1 states the regulations only apply to an individual that only has a 5 percent ownership interest. Section 35 should only apply to those individuals who have more than a 5 percent ownership interest.

Section 35, paragraph 1, subparagraph (a) and (b) concerns me because of one word—"and." Possibly the word should be "or."

I support section 36, paragraph 2 that requires submission of annual financial statements. I am concerned about section 36, paragraph 3 that requires an audit. I recommend that the Division modify this language to require a review by an independent certified public accountant (CPA). Independent audits performed by CPAs can cost tens of thousands of dollars; the first year audit will be the most expensive. I recommend that the Division require an independent review rather than an audit or possibly require an audit for the first couple of years. Related to this matter is Internal Revenue Code Section 280E. Any MME that operates in the 2014 calendar year will file its tax returns in 2015. Unless there are changes to Section 280E as proposed by congress currently, a deficiency notice will be issued by the IRS. No deductions are allowed under

Section 280E. The IRS might be looking at the financial operations of an MME just as much or more than the Division. There are two tax court opinions regarding MMEs at this time.

Ms. McDade Williams:
Before we proceed with further testimony, we are setting a deadline of December 30, 2013, to accept further comments on the draft regulations. This will enable us to prepare the draft regulations for submission to LCB.

Peter Kruger:
I represent the Nevada Medical Marijuana Association. We ask that the Division be mindful of rural areas and that a one-size-fits-all approach does not really fit all. The legislation does not address this issue. Please keep in mind rural areas especially concerning costs, methods of transportation, audits, laboratories, and associated issues.

I also want to address the scoring criteria and point values. We would like to see the scoring criteria and point values as soon as possible. We ask that the Division provide this information as it is determined.

Ms. McDade Williams:
The regulations state we will release the point values when we announce the application period. There is a 30-day notice. Are you requesting more than 30 days?

Mr. Kruger:
We would like the information now.

Ms. McDade Williams:
This comment is directed to Mr. Fitzpatrick. In your written documentation, please identify the sections in the regulations that would not be needed if we required accreditation by ISO.

Lissa Davis:
[Due to technical audio difficulties, this is a partial transcript of Ms. Davis's testimony.]
Agents should not be restricted to the actual dispensary or to any of the other parties. Agents should be able to obtain a license that stays with the agent, not the business.

As a patient, I am not sure I will be happy paying $400 to $500 an ounce for my medicine. As a worker, I cannot get a job in many places in this town because I have to have a drug test to become employed. There are many patients who understand how this medicine works—the medicine would allow them to work. This is why an agent card would be beneficial to the patient.

I believe the Division's pricing is extremely high. If you are already a patient, you have been through police checks and you have had your fingerprints taken. I would like to see the pricing for a medical marijuana patient to be $25 and the annual renewal to be $25.

Section 57 addresses the origin and strain of medical marijuana seeds and cuttings. I believe that this should just state "unknown" for the first couple of years because the patient will not have that information.

What are dispensaries allowed to sell besides medicine? Will they be able to sell T-shirts, cards, pipes, etc.?

I visited Arizona in May 2013, and I called a couple of dispensaries. The people to whom I spoke were disorganized, and they did not know what was going on. I hope that when we roll our program out people are friendlier. Arizona is a reciprocal state. What we want is for patients to be able to get their medicine.

Section 134 addresses complaints. I ask that a refundable bond be included with the complaint. Otherwise, the person filing the complaint could make any kind of accusation.

For physicians, what number of patients is too high?

Section 138 states that the Division will ensure that there is a log available for law enforcement 24-hours a day. I ask that there is evidence that the registry was used before the officer contacts the patient or caregiver.

This is not the end of the rainbow. We need to keep working on our Legislature to make this a better program.

Judie Collins:
I represent LVP I. We need clarification on several issues.

Regarding non-transferability, can a husband and wife hold joint ownership of an establishment? In the event that one of the spouses passes away, would the living spouse be able to continue working in the establishment without having to relinquish the certificate?

In the unusual event an employee of a limited liability corporation (LLC) were to get into legal trouble, how would this affect the LLC? Or, would it affect the LLC?

Regarding the number of building locations that are allowed for each application, the Division could approve the application but deny a license based on the location. Is it possible to have more than one location with a given application?

It is my understanding that one must have a building with a solid lease agreement along with a consent letter or one has to own the building outright. Can that building be in escrow at the time of application?

Ms. McDade Williams:
Have you submitted your questions in written form?

Ms. Collins:
No, but I will submit them.

Adam Mintz:
I represent Steep Hill Lab. I have submitted comments to the Division for consideration.

Regarding the sample size chart for testing of medical cannabis, I would like to have language added to that provision from Washington's I-502. It states that independent testing laboratories may request additional samples in amounts listed in the chart for quality assurance testing. This is important because laboratories will have no way to procure cultivated, processed cannabis nor will laboratories be able to determine machine calibration in order to determine proficiency testing to the State or to any group that will be doing ISO certification. Additional sample material may be needed in this instance. This will enable the testing to remain consistent.

ISO certification is a great thing for laboratories to have; however, as others have mentioned, it takes time to obtain certification. I recommend that the Division investigate how long it takes to obtain ISO certification. Michigan has required that laboratories become ISO certification by March or April 2015. Gaining ISO certification is a burden on laboratories, but it is something that we want to ensure proper scientific procedures are performed as addressed in SB 374.

Chad Westom:
You mentioned section 119, the chart, and the sample size needed. Are you suggesting that there be a provision so that if the laboratory needs a larger sample, the laboratory would be authorized to obtain one?

Mr. Mintz:
I am suggesting that laboratories from time to time will need additional sample sizes—not for testing the sample for the processor or cultivator, but for the purpose of machine calibration. If the Division does not agree through that avenue, there needs to be some means to obtain material in excess of the sample size so that the laboratory can provide the sample testing, proficiency testing, calibration testing for equipment, quality assurance testing, etc.

Shannon Dobbs:
I am a commercial property owner, and I am marketing my facility for a dispensary.

From a property owner perspective, I support the City of Reno proposed amendment regarding changes to the language in section 26, paragraph 13. We should ensure that properties are not impacted outside of the medical marijuana concerns. There are areas like the downtown corridor that are heavily regulated, and we should make sure that the regulations are directed at the issue.

I am also speaking as a disabled veteran and a patient. I will be benefitting from the dispensaries that will be erected. I want to make sure that the State considers the safety and security of the patients. If there are zoning regulations that are too restrictive, you could inadvertently mandate some of these facilities to the outskirts of town in relatively unpoliced locations. We do not want

patients preyed upon. I want to ensure the State considers this issue. I want to ensure that dispensaries are located near hubs of transportation for easy patient access.

Max Del Real:
My concerns are with cultivation.

The medicine has to come from somewhere. We have seen in other states that there is not enough medicine for patients. How many commercial cultivation licenses do we expect in the new medical marijuana program in the State? After meeting with a number of different professionals, we believe that the one-to-one ratio will not be enough. There will be 66 commercial cultivation licenses and they will not provide enough medicine for Nevada patients especially considering our forward thinking reciprocity program. Do we have a specific number that will be enough? No. Perhaps the Division should consider an open provisional application (different from the retail application) for cultivation. The Division might have a phase I, phase II, and possibly phase III permitting process for cultivation applicants. This would then tie the commercial cultivation applicant to the property. I do not believe the one-to-one will be enough, and I encourage the Division to leave that number open to allow quality applicants to come in the door. I believe that no one here wants to see the program fail in the beginning because not enough medicine is available for patients that need it.

I am happy that we are engaged on the issue of greenhouses as addressed in Section 72. I believe we are moving forward with the idea that greenhouses will be accepted as part of the commercial cultivation application process. I would like to see more verbiage on the issue in the regulations. A greenhouse can be secure and can meet all of the specific security standards. There are a number of obvious environmental impacts from greenhouses. A 25,000 sq. ft. greenhouse can be constructed in 30 to 45 days. We welcome the idea that greenhouses can be a part of application for cultivation.

After touring many properties throughout northern and southern Nevada, meeting with real estate agents and brokers, and meeting with county and municipal leaders, we have limited space in the State. There are certain zoning setbacks. For instance, a facility must be 1,000 feet from schools and parks. These standards are recognized in other states and municipalities. Section 105, paragraph 1, subparagraphs (a) and (b) addresses suitable size and adequate space for cultivation facilities. To avoid monopolies, to provide for a competitive application process, and to recognize the need for secure cultivation facilities, we do not want to have these hubs become places of crime. So, how do we do that? I believe the State should consider, as other states are, limiting or placing a cap on the square footage of a commercial cultivation facility. I believe 25,000 sq. ft. can and should be a cap on a commercial and/or warehouse facility. For those that may argue that facilities should be larger, I go back to my first statement that there may not be enough facilities. I believe that 25,000 sq. ft. meets the objectives of section 105, paragraph 1, subparagraphs (a) and (b).

Ms. McDade Williams:
As I read section 72, outdoor grows are not envisioned. If all of the sides and the top of the greenhouse are opaque, an outdoor grow is not possible. This section is not promoting outdoor cultivation.

Mr. Del Real:
A greenhouse is a structure. In terms of meeting the specifics, there is technology and science today that can hide the medicine from outside view. In addition, I believe that there could be setbacks or barriers that would not allow outside individuals to come on to the property. I encourage the Division to be open minded on greenhouses. The Division should place the responsibility upon the applicant to show that he or she can meet the standards.

Mr. Westom:
The square footage of facilities will affect the number of applications that are considered. Can you explain in more detail your recommendation of 25,000 sq. ft. for cultivation facilities? How will capping the size be beneficial?

Mr. Del Real:
I will submit some hard science to you in writing. I believe Washington has limited the size to 30,000 sq. ft. for commercial cultivation facilities. In addition, it should be noted there are not a lot of 50,000 sq. ft. warehouses in Nevada, but there are many 25,000 sq. ft. warehouses. My recommendation is to limit the structure to 25,000 sq. ft. What happens inside is a miracle. I have been in over 250 commercial cultivation facilities. Farmers, cultivators, and growers—people who specialize in creating this plant—have different technologies, strategies, and practices. Also, different plants grow differently. At the end of the day, you have to trust that professional to take advantage of the space and do it in a way that meets all the security standards. My concern is that someone may come in and try to operate a 100,000 sq. ft. warehouse—I do not believe that is safe. I do not have best practice examples of individuals doing that successfully. I believe you can increase the number of permits available beyond the one-to-one ratio, but cap the size of the building and place the responsibility on the professional.

Michael Hillerby:
I have submitted proposed amendments for section 121, paragraph 9. We ask that the language about pesticides be amended to state, “The independent laboratory advisory committee shall establish the list of pesticides approved for use in the cultivation and production of medical marijuana and medical marijuana products to be sold or used in Nevada.” The remainder of section 121, paragraph 9 would stay as written but include the term “approved pesticide.”

Marc TerBeek:
I suggested in some of my earlier comments the concept of a pilot program. This would allow Nevada to roll out this process in the best way possible. I think there might be an assumption that sometime in 2014, Nevada will issue 66 dispensary permits and that we will have a full-blown operation running at full capacity. That is not realistic if we want to accomplish implementation of the best program possible. I have suggested a pilot program with a limited number of

cultivation facilities working closely with the State so we have the highest levels of testing and security. This would establish Nevada as a state that can keep an eye on cultivation, prevent diversion, and prevent what recently happened in Colorado.

The second aspect of a pilot program that is efficacious for Nevada is to allow the State to focus on the medicine aspect of marijuana. There are many aspects of medical cannabis, beyond THC, that have medicinal value. Much of the research that has come out over the last 5 to 10 years is exploring this issue. The pilot program would properly limit the number of cultivators and facilities necessary to meet existing need. The pilot program would allow the cultivator to work with the State through the proper regulatory framework to have security to protect the facility.

Once the program is shown to be successful, the model could be expanded to as many other registrations as necessary to meet the demand. We do not want to have product flooding the market and the program going off the rails. We want this to be done properly so the best medicine can be provided without the diversion aspect of the issue.

In the initial conceptual draft regulations, there were specific merit-based criteria for labor and employment issues. I believe that should be reintroduced into the current draft regulations. This would encourage applicants across the spectrum to partner with an experienced labor player who can provide guidance and oversight as the first line of defense.

There seems to be confusion in the regulations regarding physicians and/or lawyers who are providing advice to facilities. It seems the regulations call for these individuals to become licensed medical marijuana agents. This requirement is onerous. This was not the intent of the Legislature and it does not serve the purpose of the regulations.

Jennifer Solas:
I am the president of Wellness Education Cannabis Advocates of Nevada. We have submitted our proposed amendments to the draft regulations.

In section 35, paragraph 1, subparagraph (a) we propose that the language be revised to state, "… gains a majority ownership interest …."

In section 37, paragraph 2 we propose that the language be revised to state, "… except for a complaint concerning the cost of services, the efficacy of the medication or customer service issues, conduct an investigation …." We certainly do not want poor customer service to be the basis of a State investigation.

In section 37, paragraph 3 we propose that the language be revised to state, "The Division may enter and inspect any building or premises at any time during normal operating hours, with or without notice …." Showing up in the middle of the night is potentially dangerous especially since weapons and products are involved. Inspections should be performed during normal business hours.

In section 41, paragraph 4, subparagraphs (a) through (c) we propose replacing the current language with the following language:

(a) Develop an understanding of human physiology and the efficacy of different cannabinoids in relation to differing ailments;
(b) Understand the relationship between different strains of cannabis and various medical conditions faced by patients of the dispensary;
(c) Recognize the value of alternative ingestion methods besides smoking such as edibles, tinctures, vaporizers, etc.;
(d) Monitor dispensary information systems and criteria for establishing and managing patient and caregiver profiles to assist with long-term medication management;
(e) Learn communication and interviewing techniques to facilitate interactions with all patients including seniors, disabled and other individuals who may need assistance in communication;
(f) Understand State oversight requirements, learn to recognize signs of medicine abuse or instability in patient use, record keeping, and security procedures; and
(g) Learn to follow and document inventory control and anti-diversion techniques of controlled substances.

In section 41, paragraph 5, after subparagraph (b), add the following language:

(c) Develop an understanding of human physiology as it relates to cannabis use;
(d) Learn to understand the function of and how to recognize the primary cannabinoids;
(e) Learn to understand and recognize the different types of chemical analysis hardware used in cannabinoid testing; and
(f) Monitor laboratory information systems and criteria for establishing patient and caregiver profiles to assist with long-term medication management.

In section 41, paragraph 6, subparagraphs (a) through (e) we propose replacing the current language with the following language:

(a) Develop an understanding of human physiology as it relates to cannabis use and the efficacy of different cannabinoids in relation to differing ailments;
(b) Understand the relationship between different strains of cannabis and various medical conditions faced by patients;
(c) Understand the importance of strict anti-diversion procedures;
(d) Promote quality assurance throughout the facility and the growing process;
(e) Learn how to maintain accurate record keeping for quality control and regulatory oversight processes;
(f) Learn the nutritional requirements of plants at various growth stages, proper mixing and dispersal of fertilizer, flushing procedures, and post-harvest trimming, drying, and curing procedures;
(g) Learn how to safely handle equipment including high intensity discharge lamps, electrical ballasts, pumps, fans, cutting implements, and other cultivation equipment; and
(h) Learn the best ways and least harmful methods to deal with pests, chemical problems, and anything else that may be harmful to the plants, workers, and patients.

We propose that section 50 be stricken in its entirety. There are commercial free speech issues with this section, and the Division does not have the staff to review every potential advertisement that will be generated. This provision will be burdensome for the license holders and the Division.

We propose that section 52 be stricken in its entirety. Nevada has no usury laws, so it is unclear who will determine what is reasonable or adequate. This is a lawsuit against the Division waiting to happen.

In section 121, paragraph 1, subparagraph (a) we propose revising the language to state, "Must receive training provided by the Division or a Division-approved training facility in the proper methods of selecting a random, homogenized sample for testing."

In section 137, we propose that paragraphs 1 through 3 be stricken. These are potential HIPAA violations with keeping detailed records on individual patients, and the Division needs to minimize the possible loss of privacy by intent or error. There is not a legislative need to do this. Paragraph 4 has enough teeth for the Division to comply with the legislation without creating more work for itself or fostering a chilling effect on physicians who seek to provide appropriate cannabinoid therapy for their patients. I recently spoke to a physician who handles one quarter of all the applications in the State; however, this is only one eighth of his practice. How could it be determined that he is over prescribing? The State Board of Medical Examiners has oversight of physicians.

In section 138, paragraph 2, subparagraph (a), the terms cultivating, growing, or producing are used; however, these terms are synonymous.

Melissa Waite:
I represent the law firm of Jolley Urga Wirth Woodbury Standish. I have written comments that I will submit.

We have concerns regarding section 35, paragraph 1, subparagraph (a). There are many circumstances in which a transfer would be warranted that would fall outside the annual transfer period. Those circumstances include disputes between members or shareholders, death, divorce, disability, bankruptcy, criminal conviction, etc.; these circumstances would warrant a transfer without necessarily penalizing the other shareholders.

Barry Stieb:
I represent Third Day Creation. Limiting the businesses in any way (e.g., limiting product, limiting ownership, limiting hours of operation) is not best for businesses or for patients. Allowing access to patients by keeping the cost of the cards as low as possible and extending hours of operation are things that will be beneficial to patients and businesses.

I would like to see more opportunity for Nevada citizens to have a percentage ownership with at least 50 percent, or a percentage the State finds appropriate; this would keep the money in the

State coffers. Washington does not allow non-residents to finance a business. I would like to see a similar provision in our regulations. Another way to increase opportunities for Nevada citizens is to allow patients who are allowed to grow for themselves to be allowed to continue to grow for themselves. In addition, they should be allowed to sell a predetermined amount of product. This would put money into pockets of small-grow individuals. Also, this would help to fill the gaps when a dispensary is not able to offer medicine.

Kimber Luciano:
There are caregivers that take care of several patients. My concern is whether the patients are actually receiving the product. I see an opening for caregivers to commit fraud by not distributing medicine to patients. There needs to be some sort of means to track this information.

Harrison Gale:
I need clarification in section 26, paragraph 3, subparagraph (a). This provision pertains to the proof of funds and states that $250,000 must be unencumbered; however, there is nothing that states that this is solely for that applicant. I do not see anything in the letter of the law that would prevent one ownership interest from putting funds into the same pool of $250,000 for cultivation or for a dispensary. Does one have to have $250,000 for the exclusive use for each applicant or can it be one pool of funds?

Regarding the proposal to cap the size of grow facilities, I do not see any logical reason why 25,000 sq. ft. is a good size. This is arbitrary and an overextension of the regulation. I have been a farmer my whole life, and I have worked in some of the most technologically advanced greenhouse facilities; sometimes these facilities have been in the order of hundreds of acres. In terms of medical marijuana, I have been to a research facility in Israel that was over 105,000 sq. ft. I believe limiting facilities to 25,000 sq. ft. does not make any sense.

RJ:
I agree with Mr. Gale. If you restrict the size of the facility, cultivators will find a way to cultivate the same amount of product in the same space. You will see facilities that are double and triple in height. It does not make any sense whatsoever to restrict the size of the cultivation facility.

In addition, there is adequate research that a one-to-one ratio can produce an adequate supply of medicine for dispensaries. The challenge is the timeframe of when that facility launches, when the dispensary opens, and when the product is harvested. If a dispensary opens and the cultivation facility opens 6 months later, there is a gap. It might be best to address the timeframe issues to address these gaps.

There is a need for multiple facilities with as much room as possible because there has to be diversity in the genetics and the strains that go into dispensaries. An average dispensary may go through 140 to 150 strains a year. If cultivation facilities are limited in their size, you are limiting everything. If someone wants to have a 100,000 sq. ft. facility, more power to him or her. It will be a much safer facility, too.

I ask for leniency regarding the odor. No matter how many UV or carbon filters there are in a facility, there will be odor from the facility.

Vic Salerno (for Dr. Jeff Raber):
I am here today on behalf of Dr. Raber who is out of town. He asked that I relay two issues to you regarding laboratories.

First, a laboratory can only be a laboratory, not a processor also. The language of the draft regulations needs to be changed in this regard. One can process for some and be independent of others. This is not impossible and it certainly should be allowed. Ideally, both can be done for the same clients and it would be more economically efficient. In Washington, our plan is that a cultivator/processor can contract the laboratory to process material under contract and test it as well. Good testing can be accomplished quickly. No one wants to skip testing. This makes sampling easier, too. The pharmaceutical companies do this regularly. Laboratories have expertise that they should exploit.

Second, the residual solvent is too high at 500 parts per million. This should be only 50 parts per million.

Mr. Sternberg:
Regarding the application process, it is my understanding that there is no leniency period for expired patient registry cards. I recommend that a grace period be added for expired patient registry cards so that patients do not have to go through the complete process of re-registering. This costs the State and the individual. This will allow the patient to avoid going through the fingerprinting process and other requirements again.

Ms. McDade Williams:
I will go through some of the written comments that we have received that may not have been addressed today.

A copy of the amendments proposed by the Division has been provided. These amendments are as follows:

1. Clarify the measurement expected for the distance requirements by adding language to state that the distance must be measured from the front door of the proposed MME to the nearest main entrance generally used by the public of the school or community facility.
2. Amend section 28 to state, "…awarded a provisional certificate…" rather than "…awarded a provisional license."
3. Add parentheses for subparagraphs (a) and (b) of section 76, paragraph 2.
4. Replace "TLC" with "THC" on the label in section 77.
5. Change "1 gram" to "20 grams" in the table under "Product," section 77.
6. Update the table in section 119 to correspond to the text in the regulation.
7. Insert "Except as otherwise provided in Section 128…" at the beginning of section 128, paragraph 5.

8. Delete paragraph 6 of section 121 and replace with Table 9 from the American Herbal Pharmacopoeia monograph.
9. Correct all occurrences of "Aflatoxin" in section 121, paragraph 7; replace with Aflatoxin O1 with G1 and Aflatoxin O2 with G2.
10. Delete "BW/Day" in section 121, paragraph 8.

We received comments from Hardy B. He requested:

- Amendments to section 137 related to physicians;
- Amend section 73 to allow patients who may have difficulty opening products to opt in to purchase products with easy-open packaging;
- Reduce the required record retention from 5 years to 1 year as stated in section 57, paragraph 5, subparagraph (a) and section 59, paragraph 2 and section 67, paragraph 1, subparagraph (g);
- Section 39, paragraph 2 strike "must revoke" and replace with "may revoke or suspend";
- Strike "has" and insert "may have" and strike "may be habit forming" in section 78, paragraph 1, subparagraph (g) and section 79, paragraph 1, subparagraph (m); and
- Amend section 26, paragraph 3 with an opening provision stating, "Verifiable documentation which demonstrates …."

Jesse Alexander and Victor Morin submitted comments similar to those submitted by Hardy B.

American Herbal Products Association (AHPA) submitted written comments including:

- Section 58: the 10-ounce limit may be prohibitively small;
- Section 77: the dates of final testing of the product and packaging of the product are likely to be different in many cases, so these should be separate pieces of information;
- Section 77: the format of this section should be the same as section 78 with, first, the list of requirements and, second, the sample mock-up;
- Section 79, paragraph 1, subparagraph (j): the requirement to identify allergens should be limited to "major food allergens," and a definition provided consistent with the definition established in implementing the Federal Food Allergen Labeling and Consumer Protection Act of 2004;
- Section 87, paragraph 1, subparagraph (b): it seems strange to include mention of animal products like beef, lamb, pork, etc., as these ingredients are unlikely to be used in medical marijuana facilities;
- Section 88, paragraph 3: same comment as above about animal products;
- Section 95, paragraph 1, subparagraph (a): same comment as above about animal products;
- Section 101: several issues need to be addressed:
    - Paragraph 4 identifies several "methods without employing solvents or gases" that may be used, and includes "ice water" as one such method. We recommend removing the words "ice water" (and the associated words "bubble hash") and "steam distillation" from this paragraph and that "water (including ice water and steam)" be added to the list of solvents. In addition, the paragraph identifies

specific articles ("kief, hashish, bubble hash or infused dairy butter, or oils or fats derived from natural sources"); remove the specific articles and replace with "foodstuffs, extracts, oils, tinctures, and other similar products";
    - Paragraph 7: sets the maximum level of 500 parts per million of "residual solvent or gas" in finished extracts. There cannot be a one-size-fits-all limit.
    - Paragraph 7: the AHPA needs clarification on what is meant by "Parts per million for one gram of finished extract …." AHPA recommends the sentence be rewritten to state, "Finished extracts …";
- Section 121, paragraph 8: specify what body weight (KG BW) assumption should be used for the calculating acceptance; and
- Section 125: the limitation of not more than seven members effectively caps the number of laboratories that can operate in the State for testing. It is unclear if this will provide sufficient capacity for the State.

We received comments from Timothy and John O'Reilly related to sections 26, 51, 52, 53, 55, and 79. We will make these available on our website.

Finally, we received comments from Tracy Szerszen of Perry Johnson Laboratory Accreditation, Inc., relating to section 124.

As I indicated earlier, we have a deadline of December 30 for accepting any additional comments.

Mr. Mintz:
In reference to the comment made earlier on behalf of Dr. Rabar, I believe it is extremely important for a laboratory or laboratory employees in no way take part in any production, cultivation, or distribution of cannabis or cannabis-related products. This possibility taints the idea of there being a third party, and it might lead to conflicts of interest. Laboratories should be third parties and should only be there for quality assurance and control.

Ms. McDade Williams:
Thank you for participating in today's Public Workshop.

RESPECTFULLY SUBMITTED BY:

Signature on file in DPBH

Sara Weaver,
Administrative Assistant

APPROVED BY:

Signature on file in DPBH

Marla McDade Williams,
Deputy Administrator

DATE: January 10, 2014